IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4151 of 2004

For Approval and Signature:

HON'BLE MR.JUSTICE M.R. SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

VIJAY VANKAR UTPADAN SAHAKARI MANDALI LTD.

Versus

MANAGER (K V C I) AND DIST. REGISTRAR

Appearance:

1. Special Civil Application No. 4151 of 2004

MR BG JANI for Petitioner No. 1

MR CHETAN P PANDYA for Petitioner No. 1

MR DIPEN DESAI, AGP for Respondent No. 1

NOTICE SERVED for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE M.R. SHAH

Date of decision: 20/10/2004

ORAL JUDGEMENT

#. Rule. Mr.Dipen Desai, learned AGP, waives service of rule for the respondents.

#. With the consent of the learned advocates appearing for the respective parties, the matter is taken up for final hearing today.

#. In this petition filed under Article 226 of the Constitution of India, the petitioner has challenged the legality and validity of the order passed by respondent No.1 dated 14.7.2003 by which the recognition in favour of the petitioner for the purpose of getting rebate on the sale of weaving mill's clothes is cancelled with effect from 1.6.2003.

#. Mr.Utkarsh Jani, learned advocate for the petitioner has submitted that before passing the impugned order dated 14.7.2003 and cancelling the registration / recognition for getting the benefit of rebate for selling weaving mill's clothes, no opportunity of being heard has been given and even the documents, which are relied upon by respondent No.1, are not supplied and the impugned order is against the principles of natural justice, and, therefore, requested to quash and set aside the same.

#. Mr.Dipen Desai, learned AGP appearing for the respondents, has submitted that, on inquiry, it was found that the society was found to be totally closed and not functioning, and, therefore, the impugned order has been passed. However, he could not satisfy this Court, whether before passing the impugned order any notice was served upon the petitioner or not and/or whether any opportunity of being heard was given to the petitioner or not.

#. It appears from the record that before passing the impugned order dated 14.7.2003 no opportunity was given to the petitioner and the impugned order is passed in breach of the principles of natural justice. Under the circumstances, the impugned order dated 14.7.2003 is hereby quashed and set aside and the matter is remanded to respondent No.1 for deciding the same afresh on its own merits and in accordance with law after giving opportunity to the petitioner. Mr.Desai, learned AGP, states that the show cause notice will be served upon the petitioner within a period of four weeks from today and on receipt of the said show cause notice, the petitioner to reply the same within a period of four weeks thereafter and on receipt of the reply to the show cause notice, respondent No.1 may take appropriate decision on its own merits and in accordance with law, as stated

above, within a period of two months thereafter. It will be open for the petitioner to make appropriate application for getting rebate for the intervening period and respondent No.1 may consider the same in accordance with law.

#. This petition is allowed. Rule is made absolute to the aforesaid extent with no order as to costs.

(M.R.Shah,J)

(pathan)